
(2013) 09 BOM CK 0025

In the Bombay High Court

Case No : Criminal Appeal No. 687 of 1996

Rajuwalli Dhondibhai Mujawar

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 05-09-2013

Acts Referred:

Citation : (2013) ALLMR(Cri) 4009

Hon'ble Judges : R.C. Chavan, J

Bench : Single Bench

Advocate : Manoj S. Mohite, for the Appellant; Rajesh More, APP, for the Respondent

Judgement

R.C. Chavan, J.—This appeal is directed against the conviction of the appellant by the learned Additional Sessions Judge, for the offences punishable under Sections 353, 342, 323, 506 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989; and sentence of rigorous imprisonment for two months AND six months on the two counts, on the conclusion of trial of Sessions Case No. 165 of 1993, before him. The facts which are material for deciding this appeal are as under:--

In Mhaswad town, there was water shortage in the month of July, 1993. Therefore, municipal employees were vigilant to ensure that no citizen shall snatch water from water tap connection by connecting it to electric motor pump and pull away to their houses. On 25th July, 1993, the Chief Officer of the Municipal Council, alongwith his employees were taking a round in an area where the appellant resides. They found that there was water tap in front of house of appellant's brother Abbas. The employees suspected that electric motor was attached by the appellant to the other end of the pipe which was being used to pull water from the tap. They therefore, went to the house of appellant in order to seize the electric motor pump. The appellant is alleged to have abused the members of the municipal party by addressing them as "Maharano, Mangano". One of the municipal employees, Rajendra Sartape was "Mahar" and other

Prakash Lokhande was "Mang" both belonging to Scheduled Castes. Since the Chief Officer and the municipal employees were locked inside the house, the Chief Officer sent Rajendra Sartape to bring police. Police came to the spot and asked the municipal employees to come to the police station to give a report. Report, was however, given later on by Rajendra Sartape at about 2.00 p.m. An offence was registered and investigation commenced. On completion of investigation, chargesheet was sent to the Court of Additional Sessions Judge. The learned Additional Sessions Judge to whom the case was made over, charged the appellant for the offences punishable under Sections 353, 323, 504, 506 of the Indian penal Code and Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant pleaded not guilty and therefore, he was put on trial at which the prosecution examined in all five witnesses in its attempt to bring home guilt of the appellant.

2. The appellant took defence of false implication and pointed out that the sister-in-law of the appellant had lodged a written complaint against the Chief officer about her modesty being out-raged and stated that this report by the municipal employees was to counter that complaint.

3. Upon consideration of the prosecution evidence in the light of defence raised, the learned Judge, however, held the appellant guilty, convicted and sentenced him for the aforementioned offences. Aggrieved thereby the appellant is before this Court.

4. I have heard learned counsel for the appellant and learned Additional Public Prosecutor for the State. With the help of both I have gone through the evidence on record.

5. The learned counsel for the appellant rightly wondered as to how the learned Judge could have upheld the charge of wrongful confinement when the Chief Officer Rajendra Teli, who was examined as P.W. 1 himself states that the appellant locked them inside the house by locking the house from inside. If the municipal employees were in fact locked, he wondered as to how P.W. 2 Rajendra Sartape could be sent by the Chief Officer to bring the police party. In fact P.W. 4 police constable More, who went on being called by P.W. 2 Sartape found that the door was open and stated so before the Court. There is absolutely no whisper about any assault being launched by the appellant on any of the prosecution witnesses. Yet the learned Judge held the appellant guilty of offence punishable under Sections 353 and 323 of the Indian Penal Code.

6. The appellant is alleged to have abused P.W. 1 Rajendra Teli saying that he was not afraid of cases under the Atrocities Act filed by Mahars and Mangs. Now this, in the view of the learned Judge seems to have amounted intimidation. There is nothing to show that anybody was put to any fear by any such words uttered by the appellant. In any case, about uttering these words, P.W. 2 Rajendra Sartape is categorical and has stated that the appellant only addressed them as, "Maharano, Mangano", but did not state anything further. In the cross

examination by the learned APP, he specifically denied that the appellant insulted them by saying that he was not afraid of cases under the Atrocities Act. Apart from this, P.W. 3 Prakash Lokhande who was also member of party of municipal employees did not at all support the prosecution. The learned Judge should have seen that this the evidence was hardly adequate to hold the appellant guilty of any of the offences. Therefore, though the learned APP sought to support the conviction recorded by the learned Judge, it is thoroughly unsupported by any evidence and therefore, the appeal is allowed. The conviction of the appellant for offences punishable under Sections 353, 342, 323, 506 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and sentence imposed is set aside and the appellant is acquitted of the said offence.